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STATE OF NEW HAMPSHIRE  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

SALEM, NEW HAMPSHIRE  
POLICE RELIEF ASSOCIATION

and

CASE NO. P-0715

TOWN OF SALEM, NEW HAMPSHIRE

*Rehearing*

~~██████████~~ OCTOBER 26, 1977

APPEARANCES

Representing the Town of Salem, New Hampshire:

Lewis F. Soule, Esquire, Counsel; John P. Ganley, Chief of Police; and  
William L. Kelly, Town Manager.

Representing the Salem Police Relief Association:

Anthony R. DiFruscia, Esquire, Counsel; Mark T. Young, Esquire;  
Harold R. MacIntire, Animal Control Officer; Robert T. Guisti, Sergeant;  
and, James F. Mahoney, Patrolman.

FINDINGS

Both parties of interest had requested a rehearing on the Board's decision ~~granting bargaining unit~~ in the Salem, New Hampshire Police Department dated September 20, 1977.

Rehearing was held October 26, 1977 at the James H. Hayes, Safety Building, Hazen Drive, Concord, New Hampshire. Little new evidence was presented by the parties.

The Public Employer did present as additional testimony and evidence several charts which indicated the amount of time that lieutenants had to be away from their duties for training periods, sick days off, holidays, vacations and other specially assigned duties, at which times sergeants acted in the capacity of lieutenants. This evidence on the part of the Public Employer was in argument for exclusion of the sergeants from the bargaining unit.

The Public Employee, by its representative, Attorney DiFruscia, simply restated their original position and by written brief at the rehearing offered no new testimony.

The Public Employer, through its Counsel, Lewis F. Soule, Esq., [REDACTED] [REDACTED] In accordance with this request, PELRB makes the following findings with respect thereto:

- (1) Police Patrol Sergeants do in fact act as shift commanders for certain periods of their duty; however, all of their duty time is not as shift commanders.
- (2) As shift commanders, a Sergeant may be the highest ranking Salem Police Officer on duty during that shift. This is not an unusual situation and is common to police departments.
- (3) Sergeants do take special examinations in order to qualify as sergeants and the examinations are in fact all encompassing.
- (4) Sergeants are required to take special education courses relating to police management matters. Again, this is customary in organizations of this nature, especially police departments.
- (5) Sergeants being in command of a shift may be the highest ranking officer on duty during certain periods of time. The Public Employer alleged that the period of time in this instance is significant and that they "have [REDACTED] involving the significant exercise of discretion" as that term is used in RSA 273-A:8, II. [REDACTED] In certain instances a patrolman might find himself as the senior police officer on duty at a given time in a given situation. This is customary in the majority of police departments and in any quasi military structure.
- (6) The Town is of the opinion that reliance of the Police Chief on Sergeants would disrupt effective labor-management policies if the sergeants were members of the same bargaining unit as regular police officers. [REDACTED] [REDACTED] can be carried out by other persons who are members of the bargaining unit.
- (7) While there is and can be a [REDACTED] between the Salem Police Chief and the Sergeants with respect to labor relations, this conclusion appeared to PELRB to be of a minimal nature and by no

means could this be concluded to be a major element in our considerations.

(8) ~~Special Police Officers' work hours and rate of pay differ from regular police officers in the Town of Salem.~~

Special Police Officers' work hours and rate of pay differ from regular police officers in the Town of Salem.

(9) Special Police Officers are not reliant upon this duty as their chief source of income.

(10) ~~Special Police Officers are not full-time members of the bargaining unit. It is~~

~~PELRB's position that special police officers are~~ It is PELRB's position that special police officers are ~~not full-time members of the bargaining unit,~~ and do not meet the test of full-time members of the bargaining unit, as defined.

(11) The Town's position relative to special police officers under the terms of RSA 103, Policemen's Retirement System is concurred in the absence of contrary evidence.

(12) Special Police Officers have a temporary status and are appointed annually with no assurance that they may, or may not, become full-time police officers on the Salem Police force.

(13) Special Officers are employed irregularly or are on call.

(14) Special Police Officers are regarded as temporary employees under amended Personnel Rules of the Town of Salem and not entitled to certain fringe benefits.

(15) Special Police Officers are not public employees subject to RSA 273-A, Section 1, IX (d).

(16) ~~Animal Control Officer~~

The Animal Control Officer does not report to the Police Chief or any other Salem Police Officer, but does in fact report to the Town Manager or his designees.

(17) The Animal Control Officer's duties are substantially different from those of regular police officers. Direct inquiry to the Animal Control Officer by members of PELRB indicated that he did not, in any way, or in any case, perform police duties of a general nature, but rather of a very limited nature in conjunction with his animal control duties only and specifically.

- (18) The Animal Control Officer operates only as an animal control officer as stated by his appointment. PELRB is mindful of the fact that denial of his inclusion in this bargaining unit does not act as a bar to his becoming a member of other bargaining units at some time.
- (19) The Animal Control Officer has not taken training similar to that required of police officers nor is he required to take examinations for appointment as required of police officers.

Based on the evidence PELRB finds that the Animal Control Officer does not meet the test of community of interest with the Salem Police bargaining unit and, therefore, should not be included in the unit.

BOARD DECISION

After reviewing all of the discussions and purported new evidence presented at the rehearing, which was very limited, and after consideration of the written briefs submitted by the parties, PELRB reaffirms its original decision dated September 26, 1977 as to the composition of the bargaining unit in the Salem Police Department:

The bargaining unit will consist of all full-time Patrolmen and Sergeants and will [REDACTED], [REDACTED], [REDACTED] and the Animal Control Officer [REDACTED]

  
EDWARD J. HASELTINE, CHAIRMAN  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

By unanimous vote of the Board. Chairman Edward J. Haseltine and Members Richard H. Cummings, Joseph B. Moriarty and James C. Anderson present.  
Absent: Board Member, Edward L. Allman.

Signed this        day of        1977